



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Fillmore Field Office

35 East 500 North

Fillmore, UT 84631

<http://www.blm.gov/ut/st/en/fo/fillmore.html>

mo270087
cc: Tom

TAKE PRIDE
IN AMERICA

IN REPLY REFER TO:
3809 (UT-010)
UTU-79464-01
UTU-78279

RECEIVED
NOV 17 2008
DIV. OF OIL, GAS & MINING

November 12, 2008

CERTIFIED MAIL # 7007 1490 0004 7118 0025

Return Receipt Requested

IMMEDIATE TEMPORARY SUSPENSION ORDER

Rocanville Stone
P.O. Box 35
Delta, Utah 84624

Plan of Operations UTU-79464-01
Expired Notice UTU-78279

The Fillmore Field Office is issuing this Order to **immediately cease** all mining and exploration activity at Section 29 and 30, T. 18 S., R. 13 W., SLB&B, Burgundy, Moll, Smoke, and Buckskin quarries (pits) pursuant to the authority in 43 CFR 3809.602 (b)(ii). An inspection on October 16, 2008 of your operation (UTU-78279 and UTU-79464-01) in North Canyon revealed numerous Surface Management violations as noted below. Because of the severity of these violations, all activities at all four pits must stop immediately upon receipt of this order.

The violations at the Burgundy Pit that necessitate cessation of all operations are as follows:

1. In your plan of operations conditional approval, an escrow account was required to be established prior to any stone being removed from the site. The escrow account was required because the material being mined may be common variety minerals. An escrow account was never established. This is a violation of 43 CFR 3809.605 (c) and (f).
2. Scientifically significant fossils have been mined and removed from the site. This is in violation of the approved plan mitigating measure number 6 and the Surface Management regulations. The mitigating measure number 6 stated "The operator shall immediately bring to the attention of the BLM any previously unidentified historic, archaeological, or scientifically important paleontological resources that might be altered or destroyed by your operations. The discovery will be left intact until BLM authorizes the operator to proceed. Within 10 working days of being notified, BLM will evaluate the discovery and take action to protect, remove, or preserve the resource, unless otherwise agreed to by the operator and BLM or unless otherwise provided by law." This is a violation of 43 CFR 3809.420(b)(8); 43 CFR 3809.605 (a), (c), and (f).
3. You, as the operator, were not to sanction any individuals or groups to collect fossils for commercial purposes. Fossils have and are being sold from this site. This is a violation of mitigating measure 7; 43 CFR 3809.420(b)(8); 43 CFR 3809.605 (a), (c), and (f). This is also a violation of 43 CFR 8365.1-5(c) and 43 CFR 9268.3(c)(2)(v). All sales of paleontological resources must stop immediately.
4. A portable toilet was supposed to be on site and maintained when the quarry was actively being mined. There were 4-6 people on site and no toilet facilities have been made available for their use. In addition, garbage and refuse was strewn on the adjacent hill side of the quarry. This is a violation of your approved plan of operation and 43 CFR 3809.420(b)(6) and 43 CFR 3809.605(c), and (f).

The violations at the Moll, Smoke and Buckskin Pits that necessitate cessation of all operations are:

1. There is not nor has there ever been a Bureau of Land Management (BLM) accepted notice or approved plan of operations for the Moll and Smoke pits. You are currently mining in these pits and have created 4.22 acres of surface

0004

disturbance. This is a violation of 43 CFR 3809.11; 43 CFR 3809.412; and 43 CFR 3809.605 (a) and (b).

2. Scientifically significant fossils at these sites have been removed and sold. This is a violation of 43 CFR 3809.420(b)(8); 43 CFR 3809.605 (a), (c), and (f); 43 CFR 8365.1-5(c); and 43 CFR 9268.3 (c)(2)(v).

3. The notice for the Buckskin quarry expired on January 20, 2005. There is no current authorization for this quarry. The current surface disturbance at this quarry is 4.11 acres. This is a violation of 43 CFR 3809.420 (a)(6) and (b)(8); 43 CFR 3809.605(a), (b), (e) and (f).

All work in the North Canyon Area and specifically at these four pits must immediately cease. Within 15 days of receipt of this Immediate Temporary Suspension Order you must contact this office. A meeting to discuss the violations must occur within 30 days of receipt of this order. Production records from all four pits must be submitted to this office within 30 days of receipt of this decision. An escrow account must be established and payment for pertinent materials removed to date must be deposited. No further mining may occur at the site until the completion of a mineral examination report. This report may be cost recoverable.

If you do not comply with this order, the Department of the Interior may request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce this order to prevent you from conducting operations on the public lands in violations of this subpart, and collect damages resulting from unlawful acts (see 3809.604). Additionally, if you fail to adhere to the terms of this order, you may face arrest and trial under section 303(a) of the Federal Land Policy Management Act (43 U. S. C. 1733(a)). If convicted, you will be subject to 18 U. S. C. 3571, or imprisonment not to exceed 12 months, or both, for each offense (see §3809.700).

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Fillmore Field Office, 35 East 500 North, Fillmore, Utah 84631) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

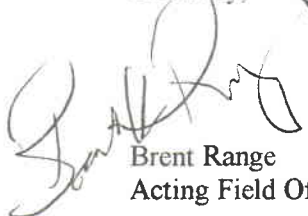
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Should you have any questions regarding this Temporary Suspension Order please contact Jerry Mansfield, Geologist at, 435-743-3125.

Sincerely,



Brent Range
Acting Field Office Manager

Enclosure:
Form 1842-1

cc: M. W. Hamilton, PO Box 35, Delta, Utah 84624, Certified Mail # 7007 1490 0004 7118 0032
L. B. Hamilton, PO Box 35, Delta, Utah 84624, Certified Mail # 7007 1490 0004 7118 0049
Larry Dutson, 140 N 150 E, Delta, Utah 84624, Certified Mail # 7007 1490 0004 7118 0056
Jan G. Dutson, 140 N 150 E, Delta, Utah 84624, Certified Mail # 7007 1490 0004 7118 0063
Larry Dutson, 790 W Main, Delta, Utah 84624, Certified Mail # 7007 1490 0004 7118 0070
W.H. Hudson, 8235 Douglas Ave, Ste 1201, Dallas, Texas 75225, Certified Mail # 7007 1490 0004 7118 0087
Andrew Hudson, 8235 Douglas Ave, Ste 1201, Dallas, Texas 75225, Certified Mail # 7007 1490 0004 7118 0094
Jan Maitland, 8235 Douglas Ave, Ste 1201, Dallas, Texas 75225, Certified Mail # 7007 1490 0004 7118 0100
Stacie Hamilton, 17490 Meandering Way C-1405, Dallas, TX 75252, Certified Mail # 7007 1490 0004 7118 0117
Beth L. Hamilton, 3754 Weeburn, Dallas, Texas 75229, Certified Mail # 7007 1490 0004 7118 0124
Stacie Hamilton, 3754 Weeburn, Dallas, Texas 75229, Certified Mail # 7007 1490 0004 7118 0131
W. David Weston, 13883 Kyle Earl Ln, Herriman, Utah 84069, Certified Mail # 7007 1490 0004 7118 0148
Vicki Weston, 13883 Kyle Earl Ln, Herriman, Utah 84069, Certified Mail # 7007 1490 0004 7118 0155
Hayley Weston, 13883 Kyle Earl Ln, Herriman, Utah 84069, Certified Mail # 7007 1490 0004 7118 0162
Piper Weston, 13883 Kyle Earl Ln, Herriman, Utah 84069, Certified Mail # 7007 1490 0004 7118 0179
W. David Weston, 218 W Paxton Ave, Salt Lake City, Utah 84101, Certified Mail # 7007 1490 0004 7118 0186
Tom Munson, Utah Division of Oil, Gas and Mining, 1594 West North Temple Ste 1210, SLC, Utah 84114-5801
Salt Lake District Office (UT-020), 2370 S. 2300 W, Salt Lake City, Utah 84119
Solid Minerals (UT-923), Utah State Office, PO Box 45155, Salt Lake City Utah 84145-0155

Hand Delivery:

Rocanville Stone, 194 N 1000 W, Delta, Utah 84624
Rocanville Stone, North Canyon Quarry

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

-
- | | |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. NOTICE OF APPEAL..... | A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
-
- | | |
|---------------------------------------------------|--|
| 2. WHERE TO FILE
NOTICE OF APPEAL..... | |
| WITH COPY TO
SOLICITOR... | |
-
- | | |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. STATEMENT OF REASONS | Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO
SOLICITOR..... | |
-
- | | |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. ADVERSE PARTIES..... | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
-
- | | |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. PROOF OF SERVICE..... | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
-
- | | |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. REQUEST FOR STAY..... | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. |
| |
Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay. |
-

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers. BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)